

ADMINISTRATIVE MANUAL

SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION State Plan Methods of Administration	<i>Chapter:</i> 3
	<i>Section:</i> 3.2
REFERENCES: Title VI-Civil Rights Act of 1964; Title IX Education Amendments of 1972; Section 504-Rehabilitation Act Of 1973; Age Discrimination Act of 1975; USDA Regulation implementing Title VI-Civil Rights Act of 1964; Americans with Disabilities Act of 1990.	<i>Page:</i> 1 of 14
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METHODS OF ADMINISTRATION

I. PURPOSE:

The Methods of Administration provide for the policies and procedures necessary to assure that all program benefits administered by and through the Department are made available to all persons and provided to all eligible individuals without regard to their race, color, national origin, sex, religion, age, or disability.

II. SCOPE:

Departmentwide.

III. NON-DISCRIMINATION POLICY STATEMENT

It is the policy of the Department to provide equal treatment in employment and provision of services to applicants, employees and clients without regard to race, color, national origin, sex, religion, age, or disability; hereafter referred to as protected category.

In accordance with the Affirmative Action Program, Governor's Executive Order 94-03, applicable federal and state laws and regulations, and the principles of affirmative action and equal employment opportunity, the Department shall provide equal opportunity for all in recruitment, hiring, training, promotion, transfer, compensation, and all other terms and conditions of employment without regard to protected category status.

It is the policy of the Department to assure that no person will be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination for any services because of race, color, national origin, sex, religion, age and/or disability. Any building occupied by the Department may not be used to promote any discriminatory

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practice nor shall the Department become a party to any agreement, which permits any discriminatory practice. Appropriate interpretive services will be provided as required for the visually or hearing impaired and for persons with limited English. The Department shall not grant, deny or revoke a license, registration or certification on the basis of race, color, national origin, sex, religion, age or disability.

The Department's commitment to Title VI, Title VII and Title IX of the Civil Rights Act of 1964 and amendments, Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Missouri Public Accommodations Act, and Executive Order 94-03 is hereby reaffirmed.

This policy and the Affirmative Action Plan shall be adhered to by all staff and contractors (where applicable) of the Department. Supervisory and management staff, in particular, shall assure that the intent as well as the stated requirements of the Methods of Administration are implemented. The application of this policy is the individual responsibility of all administrative and supervisory staff of the Department.

The Affirmative Action Policy statement shall be posted in all offices and facilities of the Department.

IV. ASSIGNMENT OF RESPONSIBILITY

- A. The Department responsibility for implementation and administration of compliance activities for Titles VI and IX of the Civil Rights Act of 1964; Age Discrimination Act of 1975; Rehabilitation Act of 1973, Section 504; and Americans with Disabilities Act of 1990 is assigned to the Human Relations Officer who is assigned to the Office of Personnel. The working title for this position is Civil Rights Compliance Coordinator.

Under authority from the Department Director, the Human Relations Officer is administratively responsible for the following:

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- assessment of the compliance level of covered contractors (i.e., facilities operated primarily to provide health care services, which receive federal/state reimbursement for the services provided);
- coordination and completion onsite/desk audit reviews for compliance levels;
- handling complaints of discrimination relative to provision of services;
- distribution of information regarding Title VI of the Civil Rights Act, the Age Discrimination Act, Section 504 of the Rehabilitation Act and Title II and Title III of the Americans with Disabilities Act to Departmental staff;
- preparation of compliance reports for submission to the U.S. Department of Health and Human Services/Office for Civil Rights;
- development of policies and procedures for implementation of the Civil Rights Act, the Age Discrimination Act, the Rehabilitation Act and the Americans with Disabilities Act relative to non-discrimination in delivery of services;
- providing training upon request with regards to Non-discrimination in Provision of Services and Titles I, II and III of the American with Disabilities Act of 1990;
- liaison between the Department and the U.S. Department of Health and Human Services/Office for Civil Rights and other agencies who have similar responsibilities for enforcement of federal civil rights laws as they pertain to provision of services; and
- technical assistance to vendors, contractors, and licensees.

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- B. The Division of Administration shall compile and maintain a listing of all service vendors, service contractors and other providers of services, financial aid and other benefits under the Department programs.
- C. The Department will notify contractors, vendors, and suppliers of prohibitions against discrimination based on race, color, national origin, sex, age, religion and disability in the Invitation for Proposal (IFP) and by inclusion of said requirement in all contracts. The Department policy statement is to be provided to contractors with a signed copy of their contract.

V. REQUIREMENTS FOR CONTRACTED SERVICE PROVIDERS

- A. The Department requires all designated service contractors, service vendors; and subcontractors and suppliers to agree to the non-discrimination in provision of services and EEO clauses as stated in all Departmental contractual agreements. These clauses are an assurance by the vendor that it will comply with Title VI and Title IX of the Civil Rights Act of 1964; Sections 503 and 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title II and Title III of the Americans with Disabilities Act 1990 and Rule 19.CSR10-2.010 of the Missouri Code of State Regulations.
- B. Racial/ethnic data must be collected and maintained by all agencies/ individuals contracting with the Department to provide services. This data shall include the number of participants as well as the number of applicants denied services and, where applicable, the reason for the denial. Data must be collected using the following breakdowns: White, Black or African American, Hispanic or Latino, Asian, Native American or Alaskan Native, Native Hawaiian or Other Pacific Islander, and Bi or Multi Racial.
- C. To ensure that service contractors and/or vendors are reaching all potentially eligible persons, the Department requires that contractors maintain a public

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notification system that explicitly states the program availability and the non-discrimination statement: "Services Provided on a Non-Discriminatory Basis."

VI. SPECIFIC 504 REQUIREMENTS FOR HOSPITALS/INSTITUTIONS

The Department has the expectation that all institutions and hospitals, which provide services or maintain a clinic, hospital or other similar facility, where service is purchased by the Department, shall advance to all federal and state laws prohibiting discrimination in providing services, programs and/or activities.

VII. NON-DISCRIMINATION IN PROVISION OF SERVICES TRAINING

- A. The Human Relations Officer for the Department is available for training relative to the various civil rights acts, which relate to provision of services. This includes providing training to existing staff, new employee orientation and providing technical assistance to contracted providers.
- B. The Department shall ensure that members of its staff who have contact with program beneficiaries are aware of the ethnic, cultural and language differences that impact delivery of services to minority persons, the needs of persons with disabilities and the barriers to the full participation of minorities and persons with disabilities in the Department and their contracted providers' programs.

VIII. DISTRIBUTION OF INFORMATION

- A. Posters, brochures, etc., relative to the provisions of the Civil Rights Act, the Rehabilitation Act, the Age Discrimination Act and the Americans with Disabilities Act must be displayed in department offices and facilities contracting with the

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Department to provide services. Information on how to acquire these posters is available through the Department's Internet or Intranet sites or through the Department's Human Relations Officer.

- B. The Department will include its declaration of non-discrimination in service delivery and equal employment opportunities on all stationary, announcements, and advertisements and literature distributed to the public.
- C. The Department will ensure all program materials and notifications can be obtained to accommodate the blind, visual and hearing impaired, and persons with limited English proficiency. These notifications will be obtained and distributed on an "as needed" basis.

IX. PROVISION OF SERVICE COMPLAINT POLICY

Any applicant for service(s) provided by the Department or any of its service vendors, contractors, or providers of services, financial aid or other benefits, having reason to believe that he/she has been discriminated against in the delivery of health care services because of race, color, national origin, sex, religion, age or disability may file a verbal or written grievance/complaint with the local agency dispensing the necessary service(s) and/or any of the following agencies:

- U.S. Department of Health and Human Services, Office for Civil Rights, 601 East 12th Street, Kansas City, MO 64106;
- Secretary of Agriculture, Washington, D.C. 20250 or Director of the Office of Advocacy and Enterprise, USDA, Washington, D.C. 20250;
- All complaints related to the WIC Program must go directly to the USDA if involving allegations of unlawful discrimination based on race, color, national origin, age, sex or disability. Complaints must be filed within five (5) calendar days;

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- Office of Personnel, Missouri Department of Health and Senior Services, 912 Wildwood, P.O. Box 570, Jefferson City, MO 65102-0570; or
- Missouri Commission on Human Rights, P.O. Box 1129, Jefferson City, MO 65102

The Department's complaint procedure will be made available to all applicants and users of services provided by the Department and/or its vendors, contractors or providers of services.

The following steps must be utilized when a client is aggrieved by an alleged discriminatory act:

1. When a client/recipient states either that they believe they have been ***discriminated*** against or states that they have been ***treated differently*** because of one or more of the protected categories listed above, the client must be given a Department Complaint of Discrimination Form (Attachment 1) and apprised of their right to file a complaint with the service provider, the Department, the U.S. Department of Health and Human Services and/or (in the case of clients/recipients who have applied for or are receiving benefits as a part of the Department's Division of Nutritional Health and Services) the U.S. Department of Agriculture.
2. If a client indicates that they are unable or unwilling to complete the form, the service provider or Department employee receiving the complaint must complete the form on behalf of the person. The following must be provided:
 - the name and title of the person completing the form;
 - the client/recipient's full name, address and telephone number; and
 - an account of what the client/recipient is alleging.

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The individual receiving the complaint should immediately forward the Complaint of Discrimination Form to the Human Relations Officer or Civil Rights Compliance Coordinator, Office of Personnel, Missouri Department of Health and Senior Services, P.O. Box 570, Jefferson City, MO 65102-0570.

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3. The client/recipient will be contacted and a determination regarding jurisdiction will be made. The client/recipient will be notified in writing of the status of the charge. If no jurisdiction is found but there is a concern regarding delivery of services, the charge will be forwarded to the appropriate Department staff for further disposition.
4. All complaints should be forwarded to the Department's Office of Personnel within 48 hours of receiving the charge. Service providers are urged to attempt to resolve problems as they are brought to their attention. If a service provider reaches a resolution, a written explanation should be forwarded to the Department's Office of Personnel within forty-eight (48) hours of resolution.
5. When a complaint is received and verified, the Human Relations Officer will conduct a prompt and thorough investigation of the allegation. The complaint will also be forwarded to the U.S. Department of Health and Human Services or the U.S. Department of Agriculture.
6. If DHSS has jurisdiction, the Human Relations Officer will, based on the complaint investigation, determine if there is evidence to support the complaint.
7. If the evidence supports the client/recipient's allegations of discrimination, the Department of will attempt to correct the discriminatory practice(s) and rectify the alleged discriminatory action.
8. The client/recipient and the appropriate federal agencies will be advised of the finding of the Department. The client/recipient will also be advised of the right to appeal the finding to the U.S. Department of Health and Human Services or the U.S. Department of Agriculture.
9. Federal law prohibits retaliation for filing a complaint of discrimination or for cooperation with an investigation of a complaint of discrimination. Complaints of retaliation should be filed with the Department's Office of Personnel by using the

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procedure set forth in Item #1 above. Evidence of such discriminatory actions will be handled in the same manner as a substantiated complaint.

10. Upon request, the Human Relations Officer will be accessible to the client/recipient and provider agency for assistance at any step of this procedure.
11. Posters which meet state and federal law detailing the rights of clients/recipients are posted in all Department facilities.

EXCEPTION: In compliance with federal laws and regulations, all complaints alleging age discrimination will be promptly forwarded by OCR to the appropriate federal regional office for referral to the Federal Mediation and Conciliation Service (FMCS).

X. MONITORING OF CONTRACTED SERVICE PROVIDERS

The Department has established and will maintain a monitoring system that assures that no policy or practice of the Department and/or its contractors is, or has the effect of, discriminating against clients, employees, applicants or participants on the basis of race, color, national origin, sex, religion, age or disability. Therefore, periodic on-site and desk compliance reviews are made based on neutral criteria.

The Human Relations Officer will maintain monitoring records for three (3) years.

XI. PROGRAM ACCESSIBILITY

The Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 mandates that facilities delivering health care services must be accessible to and usable by the disabled.

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Sections 84.21 - 84.23 of Section 504 of the Rehabilitation Act 1973 state: “No qualified handicapped person shall, because a recipient’s facilities are inaccessible to or unusable by handicapped (disabled) persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.”

Title II of the Americans with Disabilities Act of 1990 protects qualified individuals with disabilities from discrimination on the basis of disability in the services, programs or activities of all state and local governments.

Title III of the Americans with Disabilities Act of 1990 prohibits discrimination denying full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodation of any place of public accommodation.

The Department assures that no qualified disabled person shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any of its programs or those of its vendors, because the facilities are inaccessible to, or unusable by disabled persons.

Contracted providers of health services are notified that they may refer clients to accessible facilities offering a desired service if the providers’ only alternative is a significant fundamental alteration in existing services or the necessary alteration would impose an undue hardship on the provider.

The Department and health care providers contracting with the Department must also ensure that persons with impaired sensory or speaking skills and persons with limited English are provided appropriate qualified interpreters to convey information concerning the provisions of services, waivers of rights and consent to treatment.

XII. PLANNING, ADVISORY AND POLICY BOARD

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Internal Department programs are to ensure that whenever possible the composition of planning boards, committees and councils, and advisory groups reflect and include representatives from minority, aged and disabled groups to the extent which these persons are found among the population in the community.

Programs utilizing such groups provide the following information to the Department Director's Operations Coordinator:

- name of program;
- type of group;
- location of group;
- purpose of group;
- statutory authority of group; and
- composition of group (identify by race or ethnic origin, sex, age and disability status).

XIII. RECRUITMENT AND EMPLOYMENT PRACTICES

The Department has developed policies and procedures to ensure that its employment practices do not have the effect of causing discrimination in the delivery of services and benefits provided under its programs. All recruitment and employment practices are conducted in a manner that does not discriminate on the basis of race color, national origin, sex, religion, age or disability.

A. Employment Practices

The Department will continue its efforts to ensure job specifications, hiring standards and selections criteria reflect the minimum qualifications necessary for the minority applicant/employee and applicant/employee with a disability to perform essential job functions.

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Departmental personnel having the responsibility and authority for selection and hiring are responsible for utilizing legally sound interviewing and selection criteria. The Office of Personnel provides technical assistance.

The Department's Office of Personnel maintains information regarding name, sex, age, race and/or ethnic origin, disability (if provided by employee), job classification, pay grade, and step of all employees.

A "Disability Rights" form is provided to all new employees. The employee is responsible for reading and signing the form (Attachment 2).

Subsequently, any information provided by an employee regarding a disability or a request for accommodation of a disability is retained in a confidential "Employee Medical" file. This file contains all medical information provided for or about an employee. This file is separate and apart from the employee's personnel file and information from this file is provided on a "need to know" basis only.

B. Employee Complaint Policy

The Department grievance procedure (Administrative Manual Chapter 12.1) provides the Department's employees a means for discussion and resolution of work-related grievances. It is intended to provide a mechanism to resolve employee concerns and complaints.

The Department provides employees with a complaint procedure (Administrative Manual Chapter 12.6) to facilitate internal resolution of employee complaints of discrimination prohibited by federal and state Civil Rights laws.

The internal employee discrimination complaint procedure includes the following mandated provisions governing complaint procedures:

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1. If an employee wishes to file an internal complaint, they are encouraged to do so as quickly as possible following the alleged act of discriminatory treatment.

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2. Each complaint of discrimination will be investigated by the Office of Personnel. Based on the investigative findings, a determination will be made regarding whether or not there is reasonable cause to believe that discrimination has occurred.
3. The Department will take appropriate action to correct discriminatory practices.
4. Records reflecting the nature of the charge, details of the investigation, and the actions taken by the Department, shall be maintained by the Office of Personnel for five (5) years.

XIV. COMPLIANCE RECORDS

The Department will maintain the following Civil Rights records:

1. listing of staff trained on Title VI, ADA and Title 504;
2. listing of vendors, contractors, etc., participating in a contract with the Department;
3. complete files of all compliance reviews of clinics, hospitals, and local health departments reviewed by on-site or desk audits;
4. files of complaints filed alleging Title VI, ADA, Section 504, and Age Discrimination Act violations;
5. dates policy statements were disseminated to contractors by the Department;
6. resource file for recruitment of minority persons for employment;

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7. listing indicating composition of councils, planning boards, committees, and advisory groups utilized by the Department;
8. resource center of materials for provision of culturally competent services to minorities and persons with visual or hearing disabilities (shared with Minority Health) as well as those with limited English proficiency; and
9. documentation of accommodations provided by the Department to employees with disabilities.

The Department will provide current information concerning the status of its compliance program and the compliance status of covered recipient agencies, vendors, and contractors upon request to the U.S. Department of Health and Human Services and U.S. Department of Agriculture.

Prepared By:

Approved By:

Chief, Office of Personnel

Chief Operating Officer